

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CITY OF ALMATY, KAZAKHSTAN,
and BTA BANK JSC

Plaintiffs,

v.

MUKHTAR ABLYAZOV, ILYAS
KHRAPUNOV, VIKTOR KHRAPUNOV
and TRIADOU SPV S.A.,

Defendants.

No. 15-cv-05345 (AJN) (KHP)

DECLARATION OF MATTHEW L. SCHWARTZ

MATTHEW L. SCHWARTZ, pursuant to 28 U.S.C. § 1746, declares the following under penalty of perjury:

1. I am a Partner in the law firm of Boies Schiller Flexner (“BSF”), counsel for Plaintiffs BTA Bank and the City of Almaty, Kazakhstan (the “Kazakh Entities”) in the above-referenced action. I make this declaration in opposition to the motions for sanctions against the Kazakh Entities filed by Ilyas and Viktor Khrapunov and Triadou SPV S.A.
2. Attached hereto are true and correct copies of the following documents:
 - a. Exhibit 1 is a copy of excerpts from the deposition of Felix Sater.
 - b. Exhibit 2 is a copy of a document previously produced in this action, Bates stamped MEYER0000028 and identified as Sater 6 at depositions in this action.
 - c. Exhibit 3 is a copy of a document previously produced in this action, Bates stamped CHETRIT00000734.
 - d. Exhibit 4 is a copy of a document previously filed in this action at ECF No. 142.

- e. Exhibit 5 is a copy of a document previously produced in this action, Bates stamped TRIA0004470.
- f. Exhibit 6 is a copy of the Kazakh Entities privilege log, produced to the Defendants on December 7, 2018.
- g. Exhibit 7 is a copy of the June 12, 2015 Confidential Assistance Agreement signed by the Kazakh Entities, Litco LLC, Arcanum (Asia) Limited, and the Republic of Kazakhstan.
- h. Exhibit 8 is a copy of the June 16, 2015 Release and Confidentiality Agreement signed by the Kazakh Entities, Arcanum (Asia) Limited, the Republic of Kazakhstan, and Nicolas Bourg.
- i. Exhibit 9 is a copy of the July 8, 2015 Confidentiality and Non-Disclosure Agreement signed by Litco LLC and Arcanum (Asia) Limited.
- j. Exhibit 10 is a copy of the May 2016 Confidentiality and Common Interest Agreement signed by Moses & Singer, LLP, Boies Schiller Flexner LLP, and Arcanum (Asia) Limited.
- k. Exhibit 11 is a copy of a document previously produced in this action, Bates stamped Almaty-BTA0253257.
- l. Exhibit 12 is a copy of a document previously produced in this action, Bates stamped Almaty-BTA0252926.
- m. Exhibit 13 is a copy of a document previously produced in this action, Bates stamped KHRAPUNOV0004969.
- n. Exhibit 14 is a copy of excerpts from the deposition of Cesare Cerrito.

- o. Exhibit 15 is a copy of excerpts from the transcript of a hearing before the Honorable Katharine H. Parker on February 26, 2019.
- p. Exhibit 16 is a copy of a document previously produced in this action and identified as FM 2 at depositions in this action.
- q. Exhibit 17 is a copy of a document previously produced in this action and identified as FM 1 at depositions in this action.
- r. Exhibit 18 is a copy of a document previously produced in this action and identified as Sater 27 at depositions in this action.
- s. Exhibit 19 is a copy of excerpts from the transcript of a hearing before the Honorable Katharine H. Parker on September 14, 2018.
- t. Exhibit 20 is a copy of the Kazakh Entities' first set of initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1).
- u. Exhibit 21 is a copy of the Kazakh Entities' responses and objections to Viktor and Ilyas Khrapunov's first set of interrogatories.
- v. Exhibit 22 is a copy of the Kazakh Entities' responses and objections to Triadou SPV S.A.'s third set of interrogatories.
- w. Exhibit 23 is a copy of a document previously produced in this action, Bates stamped Almaty-BTA0077421.
- x. Exhibit 24 is a copy of the State of Delaware's Department of State webpage, showing entity details for LITCO LLC.
- y. Exhibit 25 is a copy of an e-mail sent by counsel for the Khrapunovs at approximately 2:23 p.m. ET on February 4, 2019.

- z. Exhibit 26 is a copy of the complaint filed on March 25, 2019 at ECF No. 1, in the matter *City of Almaty, et ano. v. Felix Sater, et. al.*, 19 Civ. 2645 (S.D.N.Y.).
- aa. Exhibit 27 is a copy of the February 2016 Release and Confidentiality Agreement signed by the Kazakh Entities, Arcanum (Asia) Limited, the Republic of Kazakhstan, and Laurent Foucher.
- bb. Exhibit 28 is a copy of the April 13, 2017 Deed of Settlement signed by BTA Bank JSC, Nicolas Bourg, and Laurent Foucher.
- cc. Exhibit 29 is a copy of the declaration of Calvin R. Humphrey, dated March 25, 2019, in further support of the Kazakh Entities' opposition to defendant Triadou SPV S.A.'s motion to compel and for discovery sanctions and the Khrapunovs' motion for sanctions.
- dd. Exhibit 30 is a copy of the declaration of Dana Mazzoleni, dated March 25, 2019, in further support of the Kazakh Entities' opposition to defendant Triadou SPV S.A.'s motion to compel and for discovery sanctions and the Khrapunovs' motion for sanctions.

Dated: New York, New York
March 25, 2019

Respectfully,

/s/ Matthew L. Schwartz
Matthew L. Schwartz